102-16

VETERANS EDUCATION AND EMPLOYMENT PROGRAMS AMENDMENTS

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Public Law 102-16
102d Congress

An Act

Mar. 22, 1991
[H.R. 180]

To amend title 38, United States Code, with respect to veterans education and employment programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Section 2011(2)(B) of title 38, United States Code, is amended by striking out "1991" and inserting in lieu thereof "1994".

SEC. 2. EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 1797A. Educational and vocational counseling

"(a) The Secretary shall make available to an individual described in subsection (b) of this section, upon such individual's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the individual in selecting—

"(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

"(2) an employment objective that would be likely to provide such individual with satisfactory employment opportunities in the light of the individual's personal circumstances.

"(b) For the purposes of this section, the term 'individual' means an individual who—

"(1) is eligible for educational assistance under chapter 30, 31, or 32 of this title or chapter 106 or 107 of title 10;

"(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

"(3) is serving on active duty in any State with the Armed Forces and is within 180 days of the estimated date of such individual's discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members of the Armed Forces.

"(c) In any case in which the Secretary has rated the individual as being incompetent, the counseling services described in subsection (a) of this section shall be required to be provided to the individual before the selection of a program of education or training.

Public information.

"(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collect-

ing such information shall be utilized to the extent the Secretary determines practicable.

"(e) The Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all individuals described in subsection (b) of this section with the availability and advantages of counseling services under this section.".

(b) CONFORMING AMENDMENTS.—(1) Chapter 34 of such title is amended—

(A) by striking out section 1663; and

(B) in the table of sections of such chapter, by striking out

"1663. Educational and vocational counseling.".

(2) Sections 1434(a)(1) and 1641(a)(1) of such title are amended by striking out "1663,".

(3) Section 1797(a) of such title is amended by inserting "under section 1797A of this title or to an individual" after "individual".

(4) The table of sections of chapter 36 of such title is amended by adding the following new item at the end of the items for subchapter II:

"1797A. Educational and vocational counseling.".

SEC. 3. VOCATIONAL REHABILITATION.

(a) REHABILITATION UNDER CHAPTER 31.—Section 1502(1)(B) of title 38, United States Code, is amended by striking out "for a service-connected disability" and all that follows through "determines" and inserting in lieu thereof "or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which".

(b) HANDLING FEES.—(1) Section 1504(a)(7) of such title is amended—

(A) by inserting "(A)" before "Vocational";

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii);

(C) by striking out "and licensing" and inserting in lieu thereof "handling charges, licensing"; and

(D) by adding at the end the following new subparagraph:

"(B) Payment for the services and assistance provided under subparagraph (A) of this paragraph shall be made from funds available for the payment of readjustment benefits.".

(2) The amendments made by this subsection shall apply only to payments made on or after the date of the enactment of this Act. 38 USC 1504 note.

(c) AMOUNT OF ALLOWANCE.—Section 1508(c)(2) of such title is amended by inserting ", State, or local government" after "Federal".

SEC. 4. EXTENSION OF THE PERIOD PRECEDING AUTOMATIC DISENROLLMENT UNDER CHAPTER 32.

Section 1632(b)(1) of title 38, United States Code, is amended by inserting before the comma "and at the end of one year thereafter has not filed a claim for utilizing such entitlement".

SEC. 5. REPEAL OF CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 1642 and paragraph (3) of section 1798(e) of title 38, United States Code, are repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 32 of such title is amended by striking out the item for section 1642.

SEC. 6. PROVISION FOR CERTAIN INDIVIDUALS TO ELIMINATE AN OVERPAYMENT BY PERFORMING WORK-STUDY SERVICES.

(a) IN GENERAL.—Section 1685 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with an individual under this section, or a modification of such an agreement, whereby the individual agrees to perform services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a) of this section, deduct the amount of the allowance from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program under this chapter, chapter 30, 31, 32, 35, or 36 (other than an education loan under subchapter III) of this title, or chapter 106 of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

"(2)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1) of this subsection.

"(B) For the purposes of this subsection, the Secretary may—

"(i) waive, in whole or in part, the limitations in subsection (a) of this section concerning the number of hours and periods during which services can be performed by the individual and the provisions of subsection (b) of this section requiring the individual's pursuit of a program of rehabilitation, education, or training;

"(ii) in accordance with such terms and conditions as may be specified in the agreement under this subsection, waive or defer charging interest and administrative costs pursuant to section 3115 of this title on the indebtedness to be satisfied by performance of the agreement; and

"(iii) notwithstanding the indebtedness offset provisions of section 3114 of this title, waive or defer until the termination of an agreement under this subsection the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the individual as described in section 3114 of this title.

"(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph, an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions of the agreement which are consistent with this subsection.

"(B) In no event shall an agreement under this subsection continue in force after the total amount of the individual's indebtedness described in paragraph (1) of this subsection has been recouped, waived, or otherwise liquidated.

"(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, if the Secretary finds that an individual was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the individual at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

"(4) The Secretary shall promulgate regulations to carry out this subsection.". Regulations.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1) Section 1685(a)(2) of such title is amended by inserting "and subsection (e) of this section" after "subsection".

(2) Section 1685(b) of such title is amended by inserting before "utilize" in the first sentence ", subject to the provisions of subsection (e) of this section,".

(3) Section 3114(a) of such title is amended by inserting before the comma "and section 1685(e) of this title".

(4) Section 3115(a) of such title is amended by striking out "section 3102" and inserting in lieu thereof "sections 1685(e) and 3102".

SEC. 7. EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING.

(a) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—Section 1641 of title 38, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 1673(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.".

(b) BENEFIT AMOUNT AND ENTITLEMENT CHARGE.—Section 1631 of such title is amended—

(1) in subsection (a)(2), by inserting "subsection (f) of this section and" after "provided in"; and

(2) by adding at the end the following new subsection:

"(f)(1) Subject to subsection (a)(1) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 1641(b) of this title shall be paid educational assistance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

"(2) No payment may be paid under this chapter to an individual for any month during which such individual is pursuing a program

of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The entitlement of an eligible veteran pursuing a program of education described in paragraph (1) of this subsection shall be charged at the rate of one month for each amount of educational assistance paid which is equal to the monthly benefit otherwise payable to such veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).".

38 USC 1631 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1991.

SEC. 8. COMMITTEE ON VETERANS' EMPLOYMENT.

(a) IN GENERAL.—Section 2010 of title 38, United States Code, is amended to read as follows:

"§ 2010. Advisory Committee on Veterans Employment and Training

Establishment.

"(a)(1) There is hereby established within the Department of Labor an advisory committee to be known as the Advisory Committee on Veterans Employment and Training.

"(2) The advisory committee shall—

"(A) assess the employment and training needs of veterans;

"(B) determine the extent to which the programs and activities of the Department of Labor are meeting such needs; and

"(C) carry out such other activities that are necessary to make the reports and recommendations referred to in subsection (f) of this section.

"(b) The Secretary of Labor shall, on a regular basis, consult with and seek the advice of the advisory committee with respect to the matters referred to in subsection (a)(2) of this section.

"(c)(1) The Secretary of Labor shall, within 90 days after the date of the enactment of this section, appoint at least 12, but no more than 18, individuals to serve as members of the advisory committee consisting of—

"(A) representatives nominated by veterans' organizations that are chartered by Federal law and have a national employment program; and

"(B) not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

"(2) A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

"(d) The following, or their representatives, shall be ex officio, nonvoting members of the advisory committee:

"(1) The Secretary of Veterans Affairs.

"(2) The Secretary of Defense.

"(3) The Secretary of Health and Human Services.

"(4) The Secretary of Education.

"(5) The Director of the Office of Personnel Management.

"(6) The Assistant Secretary of Labor for Veterans Employment and Training.

"(7) The Assistant Secretary of Labor for Employment and Training.

"(8) The Chairman of the Equal Employment Opportunity Commission.

"(9) The Administrator of the Small Business Administration.

"(10) The Postmaster General.

"(11) The Director of the United States Employment Service.

"(12) Representatives of—

"(A) other Federal departments and agencies requesting a representative on the advisory committee; and

"(B) nationally based organizations with a significant involvement in veterans employment and training programs, as determined necessary and appropriate by the Secretary of Labor.

"(e)(1) The advisory committee shall meet at least quarterly.

"(2) The Secretary of Labor shall appoint the chairman of the advisory committee who shall serve in that position for no more than 2 consecutive years.

"(3)(A) Members of the advisory committee shall serve without compensation.

"(B) Members of the advisory committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the responsibilities of the Board.

"(4) The Secretary of Labor shall provide staff and administrative support to the advisory committee through the Veterans Employment and Training Service.

"(f)(1) Not later than July 1 of each year, the advisory committee shall submit to the Secretary of Labor a report on the employment and training needs of veterans. Each such report shall contain— Reports.

"(A) an assessment of the employment and training needs of veterans;

"(B) an evaluation of the extent to which the programs and activities of the Department of Labor are meeting such needs; and

"(C) any recommendations for legislation, administrative action, and other action that the advisory committee considers appropriate.

"(2) In addition to the annual reports made under paragraph (1), the advisory committee may make recommendations to the Secretary of Labor with respect to the employment and training needs of veterans at such times and in such manner as the advisory committee determines appropriate.

"(g) Within 60 days after receiving each annual report referred to in subsection (f)(1), the Secretary of Labor shall transmit to Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

"(h) The advisory committee shall continue until terminated by law.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 41 of such title is amended by striking out the item for section 2010 and inserting in lieu thereof the following:

"2010. Advisory Committee on Veterans Employment and Training.".

SEC. 9. VETERANS READJUSTMENT APPOINTMENTS.

(a) POLICY.—Section 2014(a)(1) of title 38, United States Code, is amended—

(1) by striking out "It is the policy of the United States" and inserting in lieu thereof the following: "The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a major recruiting source. It is, therefore, the policy of the United States"; and

(2) by striking out "certain veterans of the Vietnam era" and all that follows through the period and inserting in lieu thereof "disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement.".

(b) IMPLEMENTATION.—(1) Section 2014(b)(1) of such title is amended—

(A) in clause (A), by striking out "up to" and all that follows through the semicolon and inserting in lieu thereof "up to and including the level GS–11 or its equivalent;";

(B) by striking out clauses (B) and (C) and inserting in lieu thereof the following:

"(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

"(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

"(D) a veteran receiving such an appointment shall—

"(i) in the case of a veteran with less than 15 years of education, receive training or education; and

"(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and";

(C) by striking out clauses (E) and (F); and

(D) by redesignating clause (D) as clause (E) and by striking out "; and" at the end of such clause and inserting in lieu thereof a period.

(2) Section 2014(b) of such title is amended by striking out subparagraph (B) of paragraph (2) and all that follows through paragraph (4) and inserting in lieu thereof the following:

"(B) veterans who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975, and were discharged or released from active duty under conditions other than dishonorable.

"(3)(A) Except as provided in subparagraph (C) of this paragraph, a veteran of the Vietnam era may receive an appointment under this section only during the period ending—

"(i) 10 years after the date of the veteran's last discharge or release from active duty; or

"(ii) December 31, 1993,

whichever is later.

"(B) Except as provided in subparagraph (C) of this paragraph, a veteran described in paragraph (2)(B) of this subsection may receive such an appointment only within the 10-year period following the later of—

"(i) the date of the veteran's last discharge or release from active duty; or

"(ii) December 18, 1989.

"(C) The limitations of subparagraphs (A) and (B) of this paragraph shall not apply to a veteran who has a service-connected disability rated at 30 percent or more.

"(D) For purposes of clause (i) of subparagraphs (A) and (B) of this paragraph, the last discharge or release from active duty shall not include any discharge or release from active duty of less than ninety days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force described in section 1411(a)(1)(A)(ii)(III) of this title or of an involuntary separation described in section 1418A(a)(1).".

(c) CLERICAL AMENDMENTS.—(1) The title heading for chapter 42 of such title is amended by striking out "**DISABLED AND VIETNAM ERA**".

(2) The item for such chapter in the table of chapters is amended by striking out "Disabled and Vietnam Era".

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply only to appointments made after the date of the enactment of this Act. 38 USC 2014 note.

SEC. 10. TECHNICAL AMENDMENTS.

(a) TITLE 38 TECHNICAL AMENDMENTS.—Title 38, United States Code, is amended as follows:

(1) Section 1411(a)(3) is amended—

(A) by redesignating clause (C) as clause (D); and

(B) by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) continues on active duty;

"(B) is discharged from active duty with an honorable discharge;

"(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or".

(2) Section 1418(b)(4) is amended—

(A) by striking out the comma after "service" and inserting in lieu thereof "(i)"; and

(B) by inserting ", or (ii) has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree" before the semicolon.

(3) Section 1432(f)(3) is amended by striking out "or (c)" and inserting in lieu thereof "(c), or (d)(1)".

(4) Section 1433(b) is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note)," and inserting in lieu thereof "chapter 109 of title 10".

(5) Section 1685(a)(1) is amended—

(A) by redesignating clauses (1) through (5) as clauses (A) through (E), respectively; and

(B) in clause (E), as so redesignated, by inserting ", Coast Guard, or National Guard" after "Department of Defense".

(6) Sections 1732(c)(3), 1732(e), and 1733(a)(1) are amended by striking out "Secretary of Veterans Affairs" and inserting in lieu thereof "Secretary".

(7) Section 1774(a)(1)(A) is amended by striking out "chapters 106 and 107" and inserting in lieu thereof "chapter 106".

(8) Section 2004 is amended—

(A) in subsection (a)(1), by striking out "assignment" each place it appears in the material preceding subparagraph (A) and inserting in lieu thereof "appointment";

(B) in subsection (a)(1)(C), by striking out "assignment" and inserting in lieu thereof "appointment";

(C) in subsection (a)(4), by striking out "assigning" and inserting in lieu thereof "appointment"; and

(D) by striking out subsection (d).

(9) Section 3013(a) is amended by inserting "or chapter 106 of title 10" after "of this title".

(b) TITLE 10 TECHNICAL AMENDMENT.—Section 2136(b) of title 10, United States Code, is amended by striking out "1434(b),", "1663,", and "1780(g),".

Approved March 22, 1991.

LEGISLATIVE HISTORY—H.R. 180:

CONGRESSIONAL RECORD, Vol. 137 (1991):
Feb. 5, considered and passed House.
Mar. 7, considered and passed Senate.

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